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GOVERNMENT OF KERALA

Agriculture & Rural Development Department

(Agriculture—Food)

NOTIFICATION

No. 21338|Fd.3|64|Agrl.|A&RDD. *Dated, Trivandrum, 12th June 1694.*

In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955), read with the Notification of the Government of India in the Ministry of Food and Agriculture (Department of Food) published under G.S.R. 888, dated the 28th June 1961, in the Gazette of India [Part II Section 3 sub-section (i)] dated 8th July 1961, and with the prior concurrence of the Central Government, the Government of Kerala hereby make the following amendments to the Kerala Foodgrains Dealers Licensing Order, 1964, namely:—

In the said Order,—

(1) in clause 2,—

(i) for sub-clause (a), the following sub-clause shall be substituted, namely:—

"(a) "dealer" means a person engaged in the business of purchase, sale or storage for sale of any one of the foodgrains in quantity of ten (10) quintals, or more at any one time, or in quantity of twenty-five (25) quintals or more of all foodgrains taken together, and includes commission agents engaged in such business, but does not include a

person engaged in such business on Government account or a person who sells or stores for sale any foodgrains produced by him by personal cultivation or by cultivation of land owned by him;";

(ii) after sub-clause (d), the following sub-clause shall be inserted, namely:—

"(dd) "retailer" means a dealer who is not a wholesaler;";

(iii) after sub-clause (e) the following sub-clause shall be inserted, namely:—

"(ee) "wholesaler" means a dealer who sells any foodgrains to other dealers or to bulk consumers.;"

(2) in sub-clause (1) of clause 5, for the words "renewed for a period of one year", the words "renewed for a period of one financial year", shall be substituted;

(3) for clause 6, the following clause shall be substituted, namely:—

"6. *Deposit of security.*—Every dealer who at the commencement of this Order holds a valid licence granted under the Kerala Foodgrains Dealers Licensing Order, 1963, shall, within two and a half months of such commencement, and every person applying for licence after such commencement, shall, before the licence is issued to him, deposit the amounts specified below with the licensing authority for the due performance of the conditions subject to which the licence is granted to him.

(i) If he is a retailer—a sum of Rs. 50; and

(ii) if he is a wholesaler—

(a) a sum of Rs. 250 if his annual turnover is less than Rs. 50,000;

(b) a sum of Rs. 500 if his annual turnover is between Rs. 50,000 and Rs. one lakh;

(c) a sum of Rs. 750 if his annual turnover is between Rs. one lakh and Rs. two lakhs;

(d) a sum of Rs. 1,000 if his annual turnover exceeds Rs. two lakhs:

Provided that in the case of the wholesale and retail fair price shop dealers functioning under the Kerala Foodstuffs (Distribution) Control Order, 1960, the security deposit of Rs. 500 and Rs. 100 respectively, or such lesser amounts prescribed under that Order, already furnished by them in accordance with the provisions of that Order, shall, irrespective of their annual turnover, be deemed to be sufficient security for the due performance of the conditions subject to which the licence is granted to them under this Order.

Note.—The security shall be in any of the forms and subject to the conditions prescribed in article 304 of the Kerala Financial Code, and shall be pledged in favour of the licensing authority:";

(4) for clause 8, the following clause shall be substituted, namely:—

"8. *Contravention of conditions of licence, etc*:—No holder of a licence issued under this Order or his agents or servants or any other person acting on his behalf shall contravene any of the terms and conditions of the licence or the provisions of this Order and if any such holder

or his agent or servant or any other person acting on his behalf contravenes any of the terms and conditions of the licence or the provisions of this Order or any other Order issued by a competent authority under Section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955), which is for the time being in force and which relates to any of the foodgrains mentioned in Schedule I to this Order, then, without prejudice to any other action that may be taken against him, his licence may be cancelled or suspended by the Licensing Authority by order in writing:

Provided that no order shall be made under this clause unless the licensee has been given a reasonable opportunity of stating his case in writing against the proposed cancellation or suspension;";

(5) after clause 8, the following clause shall be inserted, namely:—

"8A. *Disposal of stock when licence is cancelled or suspended.*—When a licence issued under this Order is cancelled or suspended, the stocks of foodgrains available with the licensee at the time of such cancellation or suspension shall be disposed of in accordance with the directions of the licensing authority.";

(6) for clause 10, the following clause shall be substituted,namely:—

"10. *Appeal.*—(1) Any person aggrieved by any order of the licensing authority refusing to grant or renew a licence or cancelling or suspending a licence or forfeiting the security deposited by the licensee under the provisions of this Order, may appeal to the Commissioner of Civil Supplies (Board of Revenue—Civil Supplies) within thirty (30) days of the date of receipt by him of such order.

(2) The Government may, on application received within thirty (30) days of the date of receipt by the aggrieved person of a copy of the appellate order passed by the Commissioner of Civil Supplies (Board of Revenue—Civil Supplies) under sub-clause (1), call for the records of the said Order for the purpose of satisfying themselves as to the legality or propriety of the said order and pass such order in reference thereto as they may think fit.

(3) No order shall be made under sub-clause (1) or sub-clause (2) unless the aggrieved person has been given a reasonable opportunity of stating his case.

(4) Pending the disposal of an appeal or application for revision, the Commissioner of Civil Supplies (Board of Revenue—Civil Supplies) or the Government, as the case may be, may by an order direct that—

(i) the order refusing to renew a licence; or

(ii) the order cancelling or suspending a licence

shall not take effect pending the disposal of the appeal or the application for revision, as the case may be, filed against such order.";

(7) for clause 11, the following clause shall be substituted, namely:—

"11. *Powers of entry, search, seizure, etc.*—(1) The licensing authority or any other officer authorised by the Government in this behalf may, where he has reason to believe that any contravention of the provisions of this Order or of the conditions of any licence issued thereunder has been, or is being, or is about to be, committed, or generally for the purpose of satisfying himself that the provisions of this Order and of the

conditions of any licence issued thereunder are being complied with, with such assistance, if any, as he thinks fit—

(a) require the owner, occupier or any other person in charge of any place, premises, vehicle or vessel connected with, or in use for the purpose of, his trade, to produce any book, accounts or other documents showing all or any of his transactions;

(b) enter, inspect or break open and search any place or premises, vehicle or vessel, connected with, or in use for the purpose of his trade;

(c) take or cause to be taken, extracts from or copies of, any documents showing all or any, of his transactions; and

(d) search, seize or remove stocks of foodgrains and the animals, vehicles, vessels or other conveyances connected with, or used in carrying, foodgrains and take or authorise the taking of all measures necessary for securing the production of stocks of foodgrains and the animals, vehicles, vessels, or other conveyances so seized, in a Court and for their safe custody pending such production.

(2) The provisions of section 102 and 103 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause";

(8) in Schedule I, item 4 to 11 (both inclusive) shall be omitted;

(9) In Schedule II—

(i) in Form A,

(a) for item 4, the following item shall be substituted, namely: —

"4. Situation of applicant's place of business with particulars as to number of house, street and ward, village or town and district";

(b) after item 8, the following item shall be inserted, namely:—

"8A. The availability of finance for carrying on this trade";

(c) for item 9, the following item shall be substituted, namely: —

"9. Income-tax and sales-tax paid by the applicant in the two years preceding the year of application (to be indicated separately for each tax for each year).

(1) ....

(2) ....";

(d) after item 10, the following item shall be inserted, namely: —

"11. Whether the applicant wants a licence as a wholesaler or retailer?"

(ii) in Form B,—

(a) in paragraph 1, the following shall be added at the end, namely:—

"as a wholesaler,retailer";

(b) in paragraph 2, for the Note, the following Note shall be substituted, namely:—

"Note.—If the licensee intends storing his foodgrains in places other than those specified above, he shall wherever possible give prior intimation to the licensing authority and, where it is not

possible, shall intimate the fact of taking additional or new godowns for storage purposes within 48 hours of the actual occupation, and shall also produce the licence for making requisite changes by the licensing authority.";

(c) In paragraph 3, in clause (i), for sub-clause (c), the following sub-clause shall be substituted, namely:—

"(c) the quantities delivered or otherwise removed on each day showing the name and address of the person or persons to whom the foodgrains are sent or delivered, indicating also the place of destination in the case of transactions by whole salers and the total quantity delivered or otherwise removed on each day in the case of retailers; and";

(d) for paragraph 4, the following paragraph shall be substituted, namely:—

"4. The licensee shall, except when specially exempted by the Government or by an officer authorised by the Government in this behalf, submit to the licensing authority concerned a true return in form C if he is a wholesaler, and in form C 1 if he is a retailer, of the stock, receipts and deliveries of each of the foodgrains every fortnight (1st to 15th and 16th to end of month) if he is a wholesaler and every month if he is a retailer, so as to reach the licensing authority within three days after the close of the fortnight or the month, as the case may be, or at such periodical intervals as the Government may prescribe from time to time for all dealers or for any class of dealers.";

(e) In paragraph 7, for clause (iii), the following clause shall be substituted, namely:—

"(iii) charge, in respect of sales of foodgrains made by him, if he is a wholesaler, a margin of profit in excess of any that may be prescribed by the Government or by any authority authorised by them in this behalf under any statutory order; and where no such margin has been specifically prescribed, in excess of the rate prevailing in the market at the time of sale, or at a rate in excess of any maximum rate of margin fixed for wholesale transactions in foodgrains by a representative body of foodgrain dealers for the locality concerned, whichever is less.";

(f) for paragraph 9, the following paragraph shall be substituted, namely:—

"9. A wholesaler may sell his stocks to any other wholesaler of the same market or any different market in the State, provided such sale is conducted in accordance with the directions of the licensing authority or of any officer authorised by the licensing authority from time to time in this behalf and the permissible profit margin is shared by both the wholesalers in respect of the sale of such stocks.";

(g) for paragraphs 11 and 12, the following paragraphs shall be substituted, namely:—

"11. The licensee shall give all facilities at all reasonable times to the licensing authority or any officer authorised by it or the Government for the inspection of his stocks and accounts at any shop, godown or other place used by him for the storage, sale, or purchase of foodgrains. If he is a whole-saler, he shall, in addition, abide by any general or special directions that may be given by the Government or any officer

authorised by them with regard to the method and manner of storage for facilitating easy verification.

"12. The licensee shall comply with any direction that may be given to him by the Government or any Officer authorised by them in regard to the purchase, sale or storage for sale of foodgrains and in regard to the language in which the register, returns, receipts or invoices mentioned in paragraphs 3, 4, 8 and 10 shall be written and the authentication and maintenance of the register mentioned in paragraph 3 and the officers to whom such returns shall be submitted";

(iii) for Form C, the following forms shall be substituted, namely:—

"FORM C

(See paragraph 4 of Form B)

For use by a wholesaler

Return of the stocks, receipts and sales of foodgrains for the fortnight ending............

Name:

Number of License:

Address:

Particulars of godowns where stock held.......................

Variety of the foodgrains:..................

Particulars. Quantity in quintals. Remarks, if any.

1. Stock at the beginning of the fortnight.
   - (a) actually with the stockist.
   - (b) pledged with any person or institution such as bank or co-operative Society.

   Total

2. (a) Quantity purchased during the fortnight.

   From producers. From dealers.

   - (i) From the same District.
   - (ii) From other Districts (Name of the Districts to be given).
   - (iii) From outside the State.
   - (iv) Total quantity purchased.

   (b) Average price paid. $\frac{\text{Total amount paid for purchases.}}{\text{Total quantity purchased.}}$

3. (a) Quantity sold.
   - (i) to the dealers in the District.
   - (ii) to the dealers in the State but outside the District.
   - (iii) to the dealers from outside the State.

(iv) to the public.

(v) Total quantity sold.

(b) Quantity sold but not yet delivered.

(c) Average price realised. Total amount realised. / Total quantity sold.

Note:—Against items 1, 2 and 3 above, separate particulars shall be given for each foodgrains mentioned in schedule I.

4. Stock at the end of the fortnight—

(a) Actually with the stockist—

(i) unsold—

(ii) sold but awaiting delivery.

(b) Pledged with any person or institution such as a bank, or a co-operative society.

Note 1.—Information in respect of items 2(b) and 3(c) shall be furnished by the licensee for each of the quarters ending 31st March, 30th June, 30th September and 31st December of every year. This information shall be supplied along with the return for the second fortnight of the month following the end of the quarter to which it relates.

Note 2.—Roller Flour mills are exempted from giving information in respect of items 2 (b) and 3(c).

To..

The Licensing authority. District.

Place.

Date. Signature.

Licence No.

FORM C1

(See paragraph 4 of Form 'E')

For use by a retailer

Return of stocks, receipts and sales of foodgrains for the month ending........................

1. Name.

Address.

Particulars of godowns where stock held.

Variety of the foodgrains.

Particulars. Quantity in Quintals. Remarks, if any.

1. Stock at the beginning of the month.
2. Quantity purchased during the month.
3. Source of supply.
4. Quantity sold during the month.
5. Closing stock at the end of the month.

Note:—Separate particulars shall be given in respect of each foodgrains mentioned in Schedule I.

To

The Licensing Authority.........................District.

Place.

Date. Signature.

Licence No.";

(iv) Form 'D' shall be omitted.

By order of the Governor,

A. K. K. NAMBIAR,

Additional Secretary to Government,
(Agriculture).

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